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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT SEATTLE

8 RYAN CRUTCHER,

9 Plaintiff,

10 v.

11 UNITED PARCEL SERVICE,

12 Defendant.
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CASE NO. C18-1671 RSM

ORDER DENYING APPLICATION FOR
COURT-APPOINTED COUNSEL AND
DISMISSING CASE

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15 This matter is before the Court on Plaintiff Ryan Crutcher's Application for Court-
16 Appointed Counsel. Dkt. #17. Finding that Plaintiff has offered no basis for appointment of
17 counsel, the Court denies the Application. Accordingly, because Plaintiff has failed to show
18 cause for his failure to comply with the Joint Status Report Order, this case is dismissed without
19 prejudice.

20 **I. BACKGROUND**

21 On December 24, 2019, Plaintiff was granted leave to proceed in forma pauperis against
22 Defendant United Parcel Service ("UPS"). Dkt. #5. Plaintiff's complaint alleges employment
23 discrimination and seeks relief under the Americans with Disabilities Act, 42 U.S.C. § 12101.
24 *Id.* Defendant served its Answer on April 8, 2019. Dkt. #8. Pursuant to this Court's scheduling
25 order, Dkt. #6, parties were required to file a Joint Status Report and Discovery Plan by March
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1 28, 2019 but failed to do so. Accordingly, this Court issued an order to show cause notifying
2 parties that the case would be dismissed without prejudice for failure to comply with the Court's
3 previous order. Dkt. #14. Prior to the deadline to show cause, Plaintiff requested a time
4 extension on the basis that he needed a lawyer to help him with the case. Dkt. #15. In an
5 abundance of caution, the Court ordered Plaintiff to file a request for court-appointed counsel.
6 Dkt. #16. The instant Motion to Appoint Counsel followed.

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8 Regarding the pending Application to Appoint Counsel, Plaintiff describes his efforts to
9 secure counsel on his own, including at least twenty-five calls to a list of attorneys provided to
10 him by the Equal Employment Opportunity Commission ("EEOC"). Dkt. #17 at 2. Plaintiff's
11 Application provides no other basis for his need for court-appointed counsel. However, his
12 earlier time extension request references to his mental state due to a brain aneurysm. Dkt. #15 at
13 1.

14 II. DISCUSSION

15 A. Legal Standard

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17 In civil cases, the appointment of counsel to a pro se litigant "is a privilege and not a
18 right." *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation
19 omitted). "Appointment of counsel should be allowed only in exceptional cases." *Id.* (citing
20 *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together "both the
21 likelihood of success on the merits and the ability of the petitioner to articulate his claims pro se
22 in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954
23 (9th Cir. 1983). "Neither of these considerations is dispositive and instead must be viewed
24 together." *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009) (citing *Wilborn v. Escalderon*,
25 789 F.2d 1328, 1331 (9th Cir. 1986)).
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1 **B. The Court Declines to Appoint Counsel**

2 Plaintiff does not satisfy the applicable standard here. First, Plaintiff provides no
3 explanation for his need for legal counsel. Although he makes a reference to a brain aneurysm
4 in a previously-filed motion, *see* Dkt. #15, his application provides no information regarding his
5 medical condition or why he is otherwise unable to articulate his claims against Defendant.
6 Absent further explanation from Plaintiff, the Court cannot determine that he lacks the mental
7 ability to represent himself.
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9 The merits of Plaintiff's claims are likewise uncertain. Plaintiff states that the EEOC
10 provided him with a letter that informed him of his right to sue due to his disability. Dkt. #17 at
11 2. However, Defendant suggests in its response that Plaintiff is referencing the EEOC's
12 Dismissal and Notice of Rights on Plaintiff's charge No. 551-2017-01691, which dismissed
13 Plaintiff's claim before the agency and notified him of his right to sue within ninety days of
14 receipt. Dkt. #18 at 2. Importantly, this Notice clarifies that the EEOC dismissed Plaintiff's
15 claim because it could not conclude that the information obtained established violations of the
16 statutes. Dkt. #18-1 at 2. Because Plaintiff provided no reply to Defendant's response, there is
17 minimal basis for the Court to conclude that Plaintiff's claims have merit.
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19 **C. Dismissal of Case**

20 As explained in this Court's previous order to show cause, Plaintiff was responsible for
21 initiating the process to file a Combined Joint Status Report and Discovery Plan by March 28,
22 2019. Dkt. #14. As of this date, no report has been filed. Instead, Plaintiff requested a time
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1 extension referencing both a brain aneurysm and need for legal help—neither of which he
2 explained or substantiated in his Application for Appointment of Counsel. *See* Dkt. #17.

3 For the foregoing reasons, the Court finds that Plaintiff has failed to show cause for failure
4 to comply with the Court's previous order. Accordingly, this case is DISMISSED without
5 prejudice.

6 **III. CONCLUSION**

7 Having considered Plaintiff's Application and the remainder of the record, the Court finds
8 and ORDERS that Plaintiff's Application for Court-Appointed Counsel (Dkt. #17) is DENIED
9 and this case is DISMISSED without prejudice.
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12 DATED this 26th day of July 2019.

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15 RICARDO S. MARTINEZ
16 CHIEF UNITED STATES DISTRICT JUDGE
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